

REMARKS

The Office Action dated July 30, 2003 has been reviewed and the application is amended in a manner believed to place same in condition for allowance. Reconsideration of the application is respectfully requested.

Applicants note, with appreciation, the indication of allowable subject matter in Claim 6. Independent Claim 45 is added herein and is based upon allowable Claim 6. Claim 45 is therefore believed allowable as presented. Claims 5, 15, 26 and 34 are amended herein for clarification purposes, and Claim 44 is newly added herein.

Claims 1-3, 5, 7, 8, 10-14, 20, 41 and 42 stand rejected under 35 USC 102 as anticipated by Muller (U.S. Patent No. 5 875 596). In making the instant rejection, the Examiner equates the core 170 in Muller with the cross members recited in independent Claim 1 which rigidly connect the pair of upright support members to one another, and with the transversely extending frame members recited in independent Claim 10 which interconnect the laterally spaced posts. However, as discussed in the last Response dated May 12, 2003, Muller **clearly** teaches that core 170 is not a structural member at column 7, lines 38-45. Accordingly, core 170 cannot reasonably be considered to constitute a structural equivalent of the cross members and frame members of the above claims. In Muller, the upper frame member 14 (or the "mounting member" 24 as referred to by the Examiner) interconnects the vertical frame members 18, **not** core 170. Muller's arrangement includes a panel member 12 (having inner core 170) which is seated within a ring-like channel defined by vertical frame members 18 and top and bottom frame members 14 and 16. These frame members thus extend about the periphery of panel member 12 and inner core 170.

Further, Claim 1 recites "a plurality of **vertically spaced and discrete cross members** extending laterally between said support members and rigidly connecting said support members to one another", and Claim 10 recites "a plurality of

upright and laterally spaced posts which are interconnected to one another by transversely extending and discrete frame members which are vertically spaced-apart from one another".

In this regard, even if one improperly equates the core 170 of Muller with the cross members and transversely extending frame members of Claims 1 and 10, the core 170 extends in a vertically continuous manner within panel member 12, and there is no teaching or suggestion whatsoever in Muller to provide a plurality of discrete cores 170 in vertically spaced relation with one another. Claims 1 and 10 are therefore believed allowable over Muller.

Claims 2, 3, 5, 7, 8, 11-14, 20, 41 and 42 depend from what is believed to be an allowable Claims 1 and 10, are believed allowable therewith, and include additional features which further distinguish over Muller. For example, Claim 3 recites "said bracket has a lower end in supportive engagement with a lower one of said cross members". Muller has no such lower cross member, since core 170 does not rigidly connect the vertical frame members 18 to one another.

Claim 5 recites that the mounting member includes "a pair of separate clamps disposed in opposed relation with one another on opposite outwardly facing sides of said upper cross member". The "mounting member" in Muller (i.e. top frame member 14) is a one-piece component.

Claim 11 recites that the groove of the top cap has an inverted T-shaped cross section and opens upwardly through an uppermost wall of the top cap. It is still entirely unclear as to how the sidewardly opening groove 156 defined in the side of top cap 122 in Muller can be interpreted as opening upwardly and to have an inverted T-shaped cross section, when such groove 56 opens sidewardly and has an L-shaped or C-shaped cross section. Further, the groove 156 in Muller does not open upwardly through an uppermost wall of top cap 122, and instead opens sidewardly between a lower flange of upper web member 140 and end 158 of lower web member 142.

Claim 13 recites that the mounting member includes a pair of clamps each having a lower portion including an upright wall part which overlies an upright side wall of the upper frame member and a lower flange which projects inwardly and horizontally from a lower edge of the wall part and engages a lower surface of the upper frame member. In contrast, in Muller, a pair of vertical legs project downwardly from web member 24 and engage opposite side surfaces of core member 170. These legs (see Figure 5) terminate in free ends, and such ends do not engage any lower surface of core 170.

Claims 22-25 stand rejected under 35 USC 102 as anticipated by Muller '596. Claim 22 recites "said top cap having an uppermost wall defining therein an elongate and continuous groove which opens **upwardly** through said uppermost wall for accommodating therein a mounting element which **projects downwardly into said groove** and is associated with a furniture component mounted on said panel assembly". In Muller, groove 156 opens sidewardly, not upwardly, and thus is closed at the top thereof by upper web member 140. Further, the flange 208 of shelf 200 in Muller (Figure 7) projects upwardly into sidewardly opening groove 156, not downwardly.

Claims 23-25 and added Claim 44 depend from what is believed to be an allowable Claim 22, are believed allowable therewith, and include additional features which further distinguish over Muller. For example, Claim 44 recites that the groove has a transverse cross section defined by a lower horizontally oriented portion and an upper vertically oriented portion which defines a mouth of the groove and which has a transverse width substantially less than a transverse width of the lower portion, the upper portion projecting upwardly from a center of the lower portion in generally perpendicular relation therewith to provide the groove with an inverted T-shaped cross section. Muller defines no such groove configuration.

Claims 27-29 stand rejected under 35 USC 102 as anticipated by Muller '596. Claim 27 recites "a plurality of

laterally-spaced uprights having lower ends disposed in supportive engagement with a horizontal support surface and a plurality of **vertically spaced supports extending transversely between and rigidly interconnecting said uprights**". As discussed above, core 170 in Muller is not a structural support and does not rigidly connect vertical frame members 18 to one another. In contrast, core 170 (which forms part of panel 12) is seated within channels defined by interconnected vertical frame members 18 and top and bottom frame members 14 and 16.

Claim 27 additionally recites "a plurality of discrete brackets spaced-apart longitudinally along said panel arrangement which clampingly and rigidly secure said top cap to said upper support". In the Office Action, the Examiner appears to equate the above brackets with **brackets 204** in Muller. In this regard, the brackets 204 shown in Figures 6 and 7 of Muller suspend the shelf 200 from top cap 122 and include curved upper flanges 208 which project into the groove 156 of top cap 122 and engage flange 154 thereof. As such, these brackets 204 **do not clampingly and rigidly secure the top cap 122 to any upper support in Muller**. Instead, the top cap 122 is secured directly to upper frame member 14 (see column 7, lines 18-20).

In the alternative, if the Examiner is equating top frame member 14 (or "mounting member" 24) in Muller with the brackets recited in Claim 27, the top frame member 14 is a continuous component, and thus does not constitute a plurality of **discrete** brackets spaced-apart longitudinally along the panel arrangement.

In view of the above, Claim 27 is believed allowable over Muller. Claims 28 and 29 depend from what is believed to be an allowable Claim 27, are believed allowable therewith, and include additional features which further distinguish over Muller.

Claims 18, 19, 36-38 and 40 stand rejected as unpatentable over Muller '596 and Ball (U.S. Patent No. 4 224

769). Independent Claim 36 recites "a pair of vertically oriented uprights fixed to one another by at least one horizontally oriented cross rail which extends transversely between said uprights" and "an elongate top cap positioned above said cross rail and secured thereto by a plurality of discrete clamps spaced longitudinally along said cross rail". In the instant rejection, the Examiner again equates core 170 in Muller with the "cross rail" recited above. Core 170 does not fix the vertical frame members 18 to one another, and is simply seated within the inwardly opening channels defined by the respective interconnected frame members 14, 16 and 18. Thus, core 170 is not the equivalent of the "cross rail" recited in Claim 36. Instead, the frame members 18 in Muller are fixed to one another by upper frame member 14 (or "clamp" 24 as referred to by the Examiner).

Further, the Examiner states that it would have been obvious to modify Muller in view of Ball to include discrete clamps spaced longitudinally along the core 170. It is submitted, however, that modifying Muller's upper frame member 14 in this manner would compromise the structure in Muller. More specifically, the upper frame member 14 is fixed to the spaced uprights 18 at opposite ends thereof by brackets 20 (see Figure 3), and defines a downwardly opening channel in which the top of panel 12 is seated. In other words, the ring-like frame defined by upright frame members 18, top frame member 14 and bottom frame member 16 in Muller defines an inwardly opening rectangular channel in which the respective edges of panel 12 are seated. Thus, if top frame member 14 is modified to constitute a plurality of discrete clamps spaced longitudinally along the core 170, the ring-like frame would not function as intended. That is, there would be no component to tie the upper ends of vertical frame members 18 to one another, and no structure to support the top of panel 12 relative to frame members 18. Accordingly, the combination of Muller and Ball is believed improper, and thus independent Claim 36 is believed allowable.

Claims 18, 19, 37, 38 and 40 depend from what are believed to be allowable Claims 1, 10 and 36, are believed allowable therewith, and include additional features which further distinguish over Muller and Ball. For example, Claim 38 recites "each said clamp is defined by a pair of opposed and discrete brackets which are adjustably fastened to one another and sandwich therebetween both said cross rail and a lower portion of said top cap". Neither Muller nor Ball discloses or suggests such clamps.

Claims 9, 15-17 and 21 stand rejected under 35 USC 103 as unpatentable over Yu (U.S. Patent No. 5 852 904) and Muller '596. The Examiner states that it would be obvious to modify Yu's panel arrangement to include Muller's top cap 122 positioned longitudinally along an upper one of the frame members to provide an "aesthetic" partition. In this regard, Figure 1B of Yu clearly shows a top finishing strip located along the uppermost edge of the panel run. Accordingly, there is **no motivation whatsoever** to incorporate Muller's top cap 122 into Yu's arrangement for aesthetic reasons, since Yu already incorporates a top finishing strip.

Further, the Examiner also states that it would be obvious to modify Yu's panel arrangement to include Muller's top cap 122 to provide an attachment point for a bracket as taught by Muller. Yu's upper rail 42-1 includes a pair of channels 55-1 on opposite sides thereof for mounting furniture components on the panel assembly. Accordingly, one would **not** be motivated to provide an attachment point for a bracket in Yu as suggested by the Examiner, since Yu already teaches a rail 42-1 which serves this purpose. Thus, making the modification the Examiner suggests would be **redundant**.

In addition, the Examiner makes no attempt to explain how Muller's top cap 122 would be incorporated into Yu's panel arrangement. More specifically, Muller's top cap 122 is designed to work specifically with the top frame member 14, and is not at all configured for securement on the rail 42-1 of Yu. In Yu, the rail 42-1 includes apertures 124 for

mounting brackets 26-1, and openings 119a for mounting cover panels 23-1, and how Muller's top cap 122 would cooperate with rail 42-1 and allow same to function as intended is not taught or suggested in either of the references.

Further, even if, for the sake of argument, one were to attempt to incorporate Muller's top cap 122 into Yu's panel arrangement, such a modification would require reconfiguration of the panel arrangement taught in Yu. More specifically, positioning Muller's top cap 122 on Yu's rail 42-1 would add to the overall height of Yu's panel arrangement, which would create problems when attempting to mount return walls and other components on the panel. For example, the connector bracket 26 for mounting a return wall 15 in Yu includes rail hooks 101 on opposite ends thereof which engage within upper and lower tracks respectively defined on the extension panel 24 and the base panel 17 (see Figure 3). These brackets 26 are provided in predetermined lengths which correspond to modular vertical heights of the panels, and adding a top cap to the rail in Yu would throw off the dimensional relationship of the furniture components relative to the panels. The connector brackets 26 in Yu are **not** configured to allow adjustment of the distance between the hooks at the opposite ends thereof, as discussed below with respect to Claim 30. Independent Claim 15 is therefore believed allowable over Yu and Muller.

Claims 9, 16, 17 and 21 depend from what are believed to be allowable Claims 1 and 15, are believed allowable therewith, and include additional features which further distinguish over Yu and Muller.

Claim 26 stands rejected under 35 USC 103 as unpatentable over Muller '596. The Examiner states that it would have been obvious to modify Muller's top frame member 14 in such a way that same would include components spaced longitudinally from one another along core 170, the motivation for this being to provide material cost savings through the elimination of material at unneeded locations. As discussed above, there is

no motivation to separate the top frame member 14 in Muller into separate components, since doing so would leave the top of the panel 12 unsupported relative to the vertical frame members 18, and would leave no component to interconnect the upper ends of frame members 18. Claim 26 is therefore believed allowable.

Claim 39 stands rejected under 35 USC 103 as unpatentable over Yu '904, Muller '596 and Ball '769. Claim 39 depends from what is believed to be an allowable Claim 36, is believed allowable therewith, and includes additional features which further distinguish over the above references.

Claims 30-32 and 43 stand rejected under 35 USC 103 as unpatentable over Muller '596 and Yu '904. Independent Claim 32 recites "each adjacent pair of said posts being interconnected to one another by a plurality of horizontally oriented, vertically spaced and discrete cross members so as to define an open frame". Core 170 in Muller does **not** interconnect the vertical frame members 18 to one another, and thus is not the equivalent of the cross members recited in Claim 32. Further, even if one improperly equates the core 170 of Muller with the "cross members" of Claim 32, the core 170 extends in a vertically continuous manner within panel member 12, and there is no teaching or suggestion whatsoever in Muller to provide a plurality of discrete cores 170 in vertically spaced relation with one another. Accordingly, no combination of Muller and Yu will result in the invention recited in Claim 32.

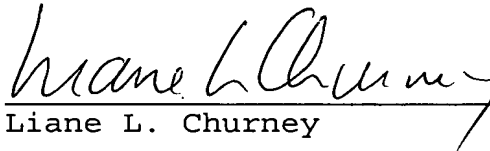
Claims 30, 31 and 43 depend from what are believed to be allowable Claims 27 and 32, are believed allowable therewith, and include additional features which further distinguish over Muller and Yu. With respect to Claim 30, the Examiner states that Yu teaches clamps 102-2 in Figure 16 adjustably fastened to one another to permit the clamps to move toward and away from one another. In this regard, the Examiner refers to reference number 157 in Figure 17A to support this conclusion. However, reference number 157 represents a pin which

cooperates with a tubular mounting section 156 of a work surface 29. The section 156 is secured at a selected height relative to connector bracket 26-4 by inserting pin 157 through mounting section 156 and into a selected opening 154 of bracket 26-4, so that the work surface 29 is disposed at a selected variable height (column 21, lines 60-67). Thus, the structure in Yu as pointed out by the Examiner does **not** at all allow one to vary the distance between the clamps at the opposite ends of the connector bracket, and Claim 30 is therefore believed allowable.

Claims 33-35 stand rejected under 35 USC 103 as unpatentable over Muller '596, Yu '904 and Ball '769. Claims 33-35 depend from what is believed to be an allowable Claim 32, are believed allowable therewith, and include additional features which further distinguish over the above references.

In view of the above, the instant application is believed to be in condition for allowance, and action toward that end is respectfully requested.

Respectfully submitted,


Liane L. Churney

LLC/jp

FLYNN, THIEL, BOUTELL
& TANIS, P.C.
2026 Rambling Road
Kalamazoo, MI 49008-1631
Phone: (269) 381-1156
Fax: (269) 381-5465

Dale H. Thiel
David G. Boutell
Ronald J. Tanis
Terryence F. Chapman
Mark L. Maki
David S. Goldenberg
Sidney B. Williams, Jr.
Liane L. Churney
Brian R. Tumm
Robert J. Sayfie

Reg. No. 24 323
Reg. No. 25 072
Reg. No. 22 724
Reg. No. 32 549
Reg. No. 36 589
Reg. No. 31 257
Reg. No. 24 949
Reg. No. 40 694
Reg. No. 36 328
Reg. No. 37 714

Encl: Postal Card

136.0703